

**BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000-14th STREET, N.W., SUITE 433
WASHINGTON, D.C. 20009
(202) 671-0550**

IN THE MATTER OF

JoAnne Carey
Veterinary Officer
Department of Health

) Date: October 11, 2011
)
) Docket No.: 11F-034
)
)

ORDER TO VACATE

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF), Office of the General Counsel following a determination by its Public Information and Records Management Division that pursuant to D.C. Official Code §1-1106.02 (2001 Edition), JOANNE CAREY, Veterinary Officer, Department of Health, failed to timely file a Financial Disclosure Statement (hereinafter FDS) for calendar year 2009 on or before May 15, 2010 as required by D.C. Official Code §1-1106.02, and by the extended filing date sanctioned by OCF on June 18, 2010.

By Notice of Hearing, Statement of Violations and Order of Appearance dated April 7, 2011, May 2, 2011 and June 2, 2011, OCF ordered JOANNE CAREY (hereinafter Respondent) to appear at a scheduled hearing on April 19, 2011, May 11, 2011 and June 14, 2011 and show cause why She should not be found in violation of the D.C. Campaign Finance Reform and Conflict of Interest Act of 1974, as amended by D.C. Official Code §§1-1101.01 et seq., and fined accordingly.

Summary of Evidence

Respondent failed to appear at the scheduled hearings dated April 19, 2011, May 11, 2011 and June 14, 2011 and had failed to file an FDS. For that reason, on July 13, 2011, OCF issued a written Order, via certified and regular mail, to Respondent, which imposed a civil penalty of \$2,000 for failure to file a FDS for calendar year 2009 on or before the extended filing deadline. On August 22, 2011, Respondent submitted a Motion to Vacate Order and Penalty and a written notarized affidavit explaining the untimely filing. Respondent explained that she had separated from her agency employer March 3, 2009 and had not been required to file an FDS for the years prior to 2009. Respondent further explains that she was not informed of her duty to file an FDS with OCF following her separation with her agency employer. OCF sent several notices to Respondent in 2011, at the address provided by her agency employer; however, Respondent did not timely receive those notices because she had relocated to a new address in July 2010.

Respondent acknowledges receiving the June 2, 2011 notice from OCF, which had been forwarded to a temporary post office box she occupied. However, Respondent asserts that she did not receive the notice in time to attend the scheduled hearing on June 14, 2011. By some means, Respondent also received the July 13, 2011 Order, which imposed the \$2,000 fine.

Respondent took action to correct her noncompliance and filed the required FDS on August 22, 2011. It is apparent that Respondent is a first-time FDS filer and does not have a history of untimely filings. Respondent is currently in compliance with the statute. Respondent has satisfied her FDS filing duty for calendar year 2009 and respectfully request that the Order and penalty be vacated.

Findings of Fact

Having reviewed the allegations and the record herein, I find:

1. Respondent served as Veterinary Officer within the Department of Health and was required to file a Financial Disclosure Statement with OCF for calendar year 2009, on or before the extended date June 18, 2010.
2. OCF issued an Order upon Respondent on July 13, 2011 imposing a \$2,000 fine.
3. Respondent filed the required FDS on August 22, 2011 and submitted a Motion to Vacate Order and Penalty along with a written notarized affidavit.
4. Respondent provided a credible explanation for the untimely filing in that Respondent separated from her agency employer March 3, 2009 and had not been required to file an FDS for the years prior to 2009. Respondent further explains that she was not informed of her duty to file an FDS with OCF following her separation with her agency employer. OCF sent several notices to Respondent in 2011, at the address provided by her agency employer; however, Respondent did not timely receive those notices because she had relocated to a new address in July 2010.
5. It is apparent that Respondent is a first-time FDS filer and does not have a history of untimely filings.
6. Respondent is currently in compliance with the statute.

Conclusions of Law

Based upon the record provided by OCF, I therefore conclude:

1. Respondent violated D.C. Official Code §1-1106.02.
2. The penalty established at D.C. Official Code §1-1103.05(b)(3), and 3 DCMR §§3711.2(aa), 3711.2 and 3711.4 (March 2007, as amended) for failure to timely file a Financial Disclosure Statement required by D.C. Official Code §1-1106.02 is a fine of \$50.00 per day for each business day subsequent to the due date.
3. In accordance with D.C. Official Code §1-1103.05(b)(3), the respondent may be fined a maximum of \$2,000.00 for failing to timely file a Financial Disclosure Statement.
4. For good cause shown pursuant to 3 DCMR §3711.6, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.
5. Respondent has provided a credible explanation for her untimely filing in that Respondent separated from her agency employer March 3, 2009 and had not been required to file an FDS for the years prior to 2009. Respondent further explains that she was not informed of her duty to file an FDS with OCF following her separation with her agency employer. OCF sent several notices to Respondent in 2011, at the address provided by her agency employer; however, Respondent did not timely receive those notices because she had relocated to a new address in July 2010.

Recommendation

In view of the foregoing and information included in the record, I hereby recommend that the Director VACATE the Order issued July 13, 2011 and SUSPEND the \$2,000 fine in this matter.

Date

Kalvanetta K. Peete
Hearing Officer

Concurrence

In view of the foregoing, I hereby concur with the Recommendation.

Date

William O. SanFord
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that the Order be VACATED and the fine be SUSPENDED in this matter.

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

I HEREBY CERTIFY that a copy of the foregoing has been furnished to JOANNE CAREY this _____ day of October, 2011 by US Mail and/or Certified Mail.

NOTICE

Pursuant to 3DCMR §3711.5, any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 433, 2000 Fourteenth Street, N.W., Washington, D.C. 20009.